REMARKS

Claims 11, 12, 14, 15, 18-31, 34, and 36 were presented for examination. The final Office Action dated August 25, 2004 rejects claims 18-21 and 25, considers claims 22-24 and 26-31 to be allowable if rewritten in independent form, and allows claims 11-12, 14-15, 34 and 36. Applicants thank the Examiner for the allowance of these claims.

A response to a restriction requirement dated November 7, 2003 withdrew claims 4, 7-8, 16-17, and 32-33 from examination. This Amendment and Response amends claims 18, 25, 27-29, and 31, and cancels the withdrawn claims 4, 7-8, 16-17, and 32-33. Claims 11, 12, 14, 15, 18-31, 34, and 36 remain pending in the application.

Rejection of Claims 18 and 25 under 35 U.S.C. § 103

The Office Action rejects claims 18 and 25 under 35 U.S.C. 103(a) as being unpatentable over Yoshimura (U.S. Patent No. 6,125,397) in view of Newman (U.S. Patent No. 5,852,601). Applicants respectfully traverse the rejection because the cited references, whether taken alone or in combination, fail to teach or suggest the Applicants' claimed invention. More specifically, neither Yoshimura nor Newman teaches or suggests a protection switch during which a flow of traffic traversing a working route (or transmission facility) at a fast rate switches to and traverses a protection route at a slow rate, as now set forth in the Applicants' claimed invention.

Unlike the Applicants' invention, Yoshimura and Newman are unrelated to protection switching; rather, these cited references relate to controlling network congestion. Congestion occurs in a network when data transfers exceed the capabilities of a network resource. Avoiding and recovering from congestion typically involve reducing the data transfer rate to give the network resource a chance to recover from the overload of data transfers. During congestion recovery, however, traffic still travels over the same network resource, albeit at the reduced rate.

Protection switching, however, is a very different traffic-handling mechanism than congestion control. During the Applicants' protection switch, the flow of traffic is switched from a working route to a protection route. Further, this switched traffic flow traverses the protection route at a slower rate (i.e., with lesser bandwidth) than the rate of the traffic flow over the working route. True, Yoshimura and Newman teach congestion control mechanisms that can reduce data transfer rates, however such congestion control mechanisms do not switch traffic from a first to a second route while reducing the data transfer rate on the second route. Rather, as noted above, during congestion control the traffic continues to use the same network resource.

To better claim the Applicants' protection switching, Applicants have amended independent claims 18 and 25 to recite expressly that traffic switches from a first route (or transmission facility) to a second route (or transmission facility) during a protection switch. Because Yoshimura's and Newman's congestion control mechanisms do not disclose or suggest such a protection switch during which traffic is switched from a first route to a second route (at a slower rate), Applicants respectfully submit that the claims 18 and 25 are patentably distinguishable over the cited references.

Rejection of Claims 19-21 under 35 U.S.C. § 103

The Office Action rejects claims 19-21 under 35 U.S.C. 103(a) as being unpatentable over Yoshimura in view of Newman, and further in view of Soirinuo (U.S. Patent No. 6,032,272). Applicants respectfully traverse the rejection because the cited references, taken alone or in combination, fail to teach or suggest the Applicants' claimed invention. Like Yoshimura and Newman, Soirinuo does not disclose, teach, or suggest a protection switch during which traffic is switched from a first route to a second route and traverses the second route at a slower rate, as now set forth in the Applicants' claimed invention. Moreover, Claims 19-21 depend directly or indirectly from patentable independent claim 18, incorporate all of its limitations, and therefore are patentably distinguishable over the cited references for at least those reasons provided in connection with claim 18.

CONCLUSION

In view of the amendments and arguments made herein, Applicants submit that the application is in condition for allowance and requests early favorable action by the Examiner.

If the Examiner believes that a telephone conversation with the Applicants' representative would expedite allowance of this application, the Examiner is cordially invited to call the undersigned at (508) 303-2003.

Respectfully submitted,

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